

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DWAYNE FREEMAN,

Plaintiff,

v.

CHRISTOPHER KIRISITS, et al.,

Defendants.

DECISION & ORDER

16-CV-6668T

Currently pending before the Court is plaintiff's motion to "halt all schedul[ed] proceedings in this case until th[e] Court properly decides [p]laintiff's forthcoming [but as yet unfiled] motions" to reconsider the district court's February 6, 2017 Decision and Order dismissing certain of his claims. (Docket # 21). Plaintiff is free to file such a motion for reconsideration provided he complies with the requirements of the Federal Rules of Civil Procedure. Neither the fact that defendant Rochester Psychiatric Center has answered nor the fact that this Court has scheduled a conference pursuant to Rule 16(b) precludes him from doing so.

With respect to his request to stay the proceedings pending the filing of such a motion, that request is denied. Rule 16(b)(2) specifically provides:

The judge must issue the scheduling order as soon as practicable, but unless the judge finds good cause for delay, the judge must issue it within the earlier of 90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared.

Fed. R. Civ. P. 16(b)(2). Defendant Rochester Psychiatric Center answered the Complaint on February 21, 2017, and the order scheduling a Rule 16 conference is thus timely. At the scheduling conference, plaintiff may address the status of any motions pending at that time and how they should affect, if at all, the setting of deadlines for the litigation of this case.

CONCLUSION

For the foregoing reasons, plaintiff's motion to halt all scheduling proceedings in this matter (**Docket # 21**) is **DENIED**.

IT IS SO ORDERED.

s/Marian W. Payson

MARIAN W. PAYSON
United States Magistrate Judge

Dated: Rochester, New York
March 3, 2017